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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/099,775	03/15/2002	Jean-Christophe Jacques Kling	3206.2.1 NP	4985

7590 05/18/2005  
Starkweather & Associates  
9035 South 1300 East #200  
Sandy, UT 84094

EXAMINER
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HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/099,775

**Applicant(s)**KLING, JEAN-CHRISTOPHE  
JACQUES**Examiner**

Yvonne M. Horton

**Art Unit**

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/20/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: see attachment.

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference numerals "A", "B", or "C". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Double Patenting***

Claim 3 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 2. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

***Allowable Subject Matter***

The indicated allowability of claims 5,6 and 9 is withdrawn in view of the newly discovered reference(s) to MIKULAS, Jr. et al. Rejections based on the newly cited reference(s) follow.

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #4,604,844 to MIKULAS, Jr. et al. MIKULAS, Jr. et al. discloses the use of an architectural system (10) including a triangular base (BA) consisting of a first (16), second (18) and third (26) strut aligned along first (AB), second (BC), and third (CA) axis; such that the first and third struts (16,18) form a base angle (CAB), the first and second (16,26) struts form base angle (ABC), and the second and third struts (18,26) form a base angle (BCA); wherein the struts (16,18) each consist of at least two rigid pieces (column 2, line 67 to column 3, line 2) movable apart to form a strut elongation. The structure (10) further includes a first node (A) engaging the first (16) and third (26) struts, a second node (B) engaging the first (16) and second (18) struts, a third node (C) engaging the second (18) and third (26) struts, and an extension (20,22,24) (28,30) and (29,31); wherein the extensions (20,22,24) (28,30) and (29,31) consists of fourth struts that engage the triangular base (BA), see the marked attachment. MIKULAS, Jr. et al. discloses the basic claimed structure except for explicitly detailing the exact dimensions of the angles forming the base triangle or the angle of the fourth strut. Although

Art Unit: 3635

MIKULAS, Jr. et al. does not detail explicit angles that form the base triangle, it would have been obvious to one having ordinary skill in the art at the time the art was made to select an angle dimension suitable for the use intended as an obvious matter of design choice. For instance, larger width structures a larger angle dimension would be required; however, when a smaller size structure is being formed, a smaller angle dimension would be required. Also, the strength of the member forming the strut or how the structure is intended to be used will determine the size of the angles that form the triangular base. In reference to claims 2-4, the fourth axis (DA) forms an angle (DAB) with the first axis; however, selection of the angle between the first and fourth axis or the angle of the fourth axis is also a matter of design choice, see also the marked attachment. Further, the applicant discloses a wide range of angle dimensions suitable for selection of the angle between the first and fourth axis, thus the applicant has shown no criticality for the selection of any one desired angle dimension. Regarding claims 5 and 11, MIKULAS, Jr. et al. also does not disclose a strut diameter or node radius; however, this too is a matter of design choice dependent upon the use intended. In reference to claim 6, the extensions include polygons (14,15,34); (12,13,32); (28,12,26); (30,32,14); (29,26,13) and (31,32,15) having "N" number is sides each occupied by a respective strut such that the third axis (CA) contains one of the "N" sides (26), the fourth axis contains another of the "N" sides (20) wherein the fourth strut forms a portion of the polygon. Regarding claims 7-10 and 14-24, the values for "j"; "n"; "m"; "t"; "q"; or "k"; are also a matter of design choice dependent upon the use intended.

In reference to claim 12, the second node includes first and second couplings respectively engaging the first (16) and second (18) struts such that the first coupling (38) and pins similar to (40,41,44,46,53,54) is capable of retaining the first (16) strut under tension along the axis (AB), and the second (18) coupling (38) and pins similar to (40,41,44,46,53,54) is capable of retaining the second (18) strut under tension along the second axis (BC). Regarding claim 13, the struts (16,18,26) are non-metallic struts, column 3, lines 55-57.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3635

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne M. Horton  
Art Unit 3635  
5/16/05

